



Bob Riley  
Governor

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## ALABAMA DEPARTMENT OF TRANSPORTATION

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Joe McInnes  
Transportation Director



October 8, 2004

VIA FACSIMILE & Hand Mail  
ATTN: Alice Ann Byrne, Esq.

Mr. Tommy Flowers  
State Personnel Department  
64 North Union Street  
Montgomery, AL. 36130

Approved:  
*Jackie Mahan*  
10/25/04

Re: Alabama Department of Transportation employee Alverene Butler

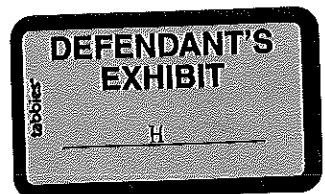
Dear Mr. Flowers:

On February 26, 2003 Department employee Alverene Butler filed a grievance alleging that her supervisor, James Horace, sexually harassed her beginning in April, 2001. Her complaint also alleged that she was affected in compensation, job assignments, duties, and retaliated against by Mr. Horace.

Upon receiving this complaint the Department initiated an investigation into her allegations. Mark Waits, District Engineer of Ms. Butler's Division, interviewed several of her co-workers. Mr. Waits' interviews revealed several of Ms. Butler's co-workers supporting her allegations of harassment by Mr. Horace.

The Department EEO, Sandi Dietz, also investigated the complaint. Ms. Dietz found that Mr. Horace had violated workplace rules and engaged in sexual harassment of Ms. Butler and other employees, and that Mr. Horace's conduct created a hostile work environment. Mr. Waits' and Ms. Dietz's investigations revealed that there was a history of harassment towards Ms. Butler from Mr. Horace before she filed her complaint in 2003. Ms. Dietz then issued an investigative report with these findings, and recommended in her report that Mr. Horace's employment be terminated for his inappropriate conduct and violation of work rules.

On March 27, 2003 Mr. Waits recommended to Division Engineer Roger Collier that Mr. Horace's employment be terminated. Ms. Butler testified at Mr. Horace's termination proceedings about the sexual harassment and retaliation she suffered. After that termination hearing, but before his actual termination of employment on April 18, 2003, Mr. Horace gave



Ms. Butler her 2003 Performance Appraisal evaluation and rating on April 10, 2003. For her 2003 appraisal he gave Ms. Butler a score of 17.5, or Meets Standards.

Mr. Horace also rated and gave Ms. Butler her performance appraisals for 2002. The Department's investigation revealed that Mr. Horace gave Ms. Butler a score of 25.0, or Meets Standards, on her 2002 performance appraisal. Mr. Horace gave this appraisal score during a time when he was similarly aware that Ms. Butler had complained to her supervisors that he was harassing her.

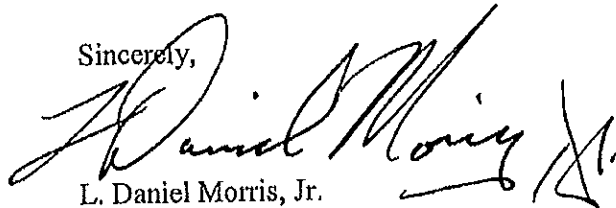
The Department believes the 2003 score by Mr. Horace of 17.50 was in retaliation for Ms. Butler's filing a complaint and/or testifying against him at the termination proceedings, and thus should be changed. In view of the investigation and analysis, the Department also believes the 2002 score of Mr. Horace of 25.0 should in all fairness and justice be changed.

As a result of Ms. Butler's complaints and the Department's investigation, the Department reviewed Ms. Butler's performance appraisal forms and rating scores from 1996 through 2003. Before working for Mr. Horace, Ms. Butler never had a score below 26.7 (Exceeds Standards). The Department believes Ms. Butler is entitled to relief in the form of an increase in these two past performance appraisals.

The Department, therefore, requests that SPD raise the 2002 and 2003 performance appraisal scores for Ms. Butler from 25.0 and 17.5 to 27.50, and that it be reflected as such in her personnel file. If the revised evaluation scores for 2002 or 2003 would have entitled her to a raise before the current pay freeze took effect, then the Department requests that Ms. Butler be given that raise, retroactive to the date it would have been paid.

The revised performance appraisals are enclosed. Thank you for your consideration and assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Morris, Jr.", with a stylized flourish at the end.

L. Daniel Morris, Jr.  
Assistant Director

LDMjr/jpm

Enclosure

Cc w/o encls: Mr. Randy Estes, Division Engineer, Sixth Division  
Mr. Ron Green, Bureau Chief, Personnel Bureau  
Jim Ippolito, Esq., Chief Counsel, Legal Bureau